

## § 233.6

## 39 CFR Ch. I (7–1–04 Edition)

satisfied, except in situations (*e.g.*, section 1113(g)) where no notice is required.

(d) *Written request.* (1) The formal request must be in the form of a letter or memorandum to an appropriate official of the financial institution and must contain:

(i) The signature of the issuing official and the official's name, title, business address, and business phone number;

(ii) The identity of the customer or customers to whom the records pertain;

(iii) A reasonable description of the records sought; and

(iv) Any additional information which may be appropriate—*e.g.*, the date when the opportunity for the customer to challenge the formal written request expires, the date when the Inspection Service Department expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(2) In cases where customer notice is delayed by court order, a copy of the court order must be attached to the formal written request.

(e) *Certification.* Before obtaining the requested records following a formal written request, a supervisory official authorized to issue a request must certify in writing to the financial institution that the Inspection Service Department has complied with the applicable provisions of the Act.

[44 FR 39161, July 5, 1979. Redesignated at 46 FR 34330, July 1, 1981]

### § 233.6 Test purchases under 39 U.S.C. 3005(e).

(a) *Scope.* This section, which implements 39 U.S.C. 3005(e), supplements any postal regulations or instructions regarding test purchases or test purchase procedures. It is limited to test purchases conducted according to 39 U.S.C. 3005(e).

(b) *Definitions.*—(1) *Test purchase.* The acquisition of any article or service, for which money or property are sought through the mails, from the person or representative offering the article or service. The purpose is to in-

vestigate possible violations of postal laws.

(2) *Test Purchase Request.* A written document requesting the sale of an article or service pursuant to 39 U.S.C. 3005(e) and containing the following information:

(i) The name and address of the person, firm, or corporation to whom the request is directed;

(ii) The name, title, signature, office mailing address, and office telephone number of the person making the request;

(iii) A description of the article or service requested which is sufficient to enable the person to whom the request is made to identify the article or service being sought;

(iv) A statement of the nature of the conduct under investigation;

(v) A statement that the article or service must be tendered at the time and place stated in the purchase request, unless the person making the request and the person to whom it is made agree otherwise in writing;

(vi) A verbatim statement of 39 U.S.C. 3005, 3007; and

(vii) A statement that failure to provide the requested article or service may be considered in a proceeding under 39 U.S.C. 3007 to determine whether probable cause exists to believe that 39 U.S.C. 3005 is being violated.

(c) *Service of Test Purchase Request.* (1) The original of the Test Purchase Request must be delivered to the person, firm, or corporation to whom the request is made or to his or its representative. It must be accompanied by a check or money order in the amount for which the article or service is offered for sale, made payable to the person, firm or corporation making the offer.

(2) The person serving the Test Purchase Request must make and sign a record, stating the date and place of service and the name of the person served. The person making the request must retain a copy of the Test Purchase Request, the record of service, and the money order receipt or a photocopy of the issued check or the cancelled check. Alternatively, the request may be made by certified mail.

(d) *Authorizations.* The Chief Postal Inspector is the principal officer of the Postal Service for the administration of all matters governing test purchases under this section. The Chief Inspector may delegate any or all authority in this regard to any or all postal inspectors.

[49 FR 7230, Feb. 28, 1984; 49 FR 8250, Mar. 6, 1984]

**§ 233.7 Forfeiture authority and procedures.**

(a) *Designation of officials having forfeiture authority.* The Chief Postal Inspector is authorized to perform all duties and responsibilities necessary on behalf of the Postal Service to enforce 18 U.S.C. 981, 2254, and 21 U.S.C. 881, to delegate all or any part of this authority to Deputy Chief Inspectors, Inspectors in Charge, and Inspectors of the Postal Inspection Service, and to issue such instructions as may be necessary to carry out this authority.

(b) *Administrative forfeiture authority.* The Chief Postal Inspector is authorized to conduct administrative forfeitures under the statutes identified in paragraph (a) of this section, following, where applicable, the procedures provided by the customs laws of the United States (19 U.S.C. 1600 *et seq.*), and to pay valid liens and mortgages against property that has been so forfeited.

(c) *Inventory.* An inventory of all property seized for forfeiture under the statutes identified in paragraph (a) of this section shall be prepared and maintained by the Postal Inspection Service. The inventory should occur within seven days of the seizure. The inventory must, at a minimum, identify all property seized, state the exact location of the property at the time of its seizure, and describe in detail the condition of the property. A written receipt containing such information and identifying the Postal Inspector who conducted the seizure must be provided to the party from whom the property was seized, or the party's agent or representative, at the time of the seizure or as soon thereafter as is practicable.

(d) *Custody.* Custody of all property seized for forfeiture under the statutes identified in paragraph (a) of this section is maintained by the U.S. Mar-

shals Service, except property held for evidentiary purposes; retained for official use upon forfeiture; subject to equitable transfer to federal, state or local law enforcement agencies; or subject to civil administrative forfeiture.

(e) *Appraisal.* The Postal Inspection Service must promptly obtain or complete an appraisal of all seized property. The appraisal value is the fair market value of the property, which is the highest price, in terms of money, which a property will bring in a competitive and open market.

(f) *Quick-release.* Property subject to administrative forfeiture may, prior to forfeiture, be released by the Postal Inspection Service to the owner of the property having an immediate right to possession of the property when the Postal Inspection Service concludes that release of the property is in the best interest of justice. An agreement to hold harmless the United States, the Postal Inspection Service, and all other involved entities should be obtained from the owner. A decision for quick release of the property should be made within five days of the seizure.

(g) *Judicial forfeiture.* If the appraised value of property seized exceeds \$500,000, with the exception of: (1) Monetary instruments within the meaning of 31 U.S.C. 5312(a)(3), or (2) any conveyance which was used to import, export, transport, or store any controlled substance or if a claim and satisfactory bond have been received for property appraised at \$500,000 or less, or for any monetary instruments within the meaning of 31 U.S.C. 5312(a)(3) or any conveyance which was used to import, export, transport, or store any controlled substance the Postal Inspection Service must transmit the claim and bond to the U.S. Attorney for the judicial district in which the seizure was made and request that the U.S. Attorney promptly institute a judicial forfeiture proceeding against the property. The Postal Inspection Service must provide the U.S. Attorney a complete written description of the property, a statement of the facts and circumstances leading to the seizure of the property, including all facts and documentation leading to the conclusion that the seized property is subject